

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

Peter George Nicori,)
Appellant,)
vs.)

STATE OF ALASKA,)
Appellee.)

Trial Case No. 4BE-16-00547 CR

RECEIVED

FEB 11 2020

APPELLATE COURTS
OF THE
STATE OF ALASKA

FILED

FEB - 9 2020

APPELLATE COURTS
OF THE
STATE OF ALASKA

STATEMENT OF APPELLANT'S GRIEVANCE

I, Peter George Nicori, the appellant in the above case hereby attests and swears the following information to be true and correct to the best of my knowledge.

1. I was questioned on August 16, 2016, at the Kwethluk Public Safety Building by Tribal Police Officer Charlamagne Olick accompanied by V.P.S.O. Max Olick. The electronic tape recording for this interrogation, I allege to be tampered with to alter its authenticity by person unknown. T.P.O. Ms. Olick made notes on a piece of cardboard box paper that was not put into evidence, this evidence has turned up missing.

2. I was arrested on August 17, 2016, by Trooper Secor who charged me with one count of Assault in the Third Degree, for the alleged assault on Allen Nicori.

3. At the arraignment on August 18, 2016, I was charged with an additional count of Assault in the Third Degree due to priors. There was no charging documents regarding the alleged victim John Adam Andrew, Jr. Proceeded with hearing. For trial, Mr. Andrew didn't testify against me.

4/2/2020

REFUSED FOR FILING

You are currently represented
by counsel. Under
Appellate Rule 518(b),
your attorney must
file documents in
your appeal, A-18375,
on your behalf.

CC: R. McFarland
E. Burke

Ryan Montgomery - Siller, Chief Deputy Clerk

4. At scheduled Preliminary Hearing on August 29, 2016, I exercised to have two counts of assault charges to be dismissed under Criminal Rule Five (5) for lack of preliminary hearing when in fact I was not indicted by the grand jury with ten days. I wanted to be discharged for this particular issue and it was not granted. Instead, Magistrate Judge Bruce Ward amended the Information Replacing Complaint forwarded by the District Attorney that was not assigned to my case by the court, only to dismiss the two counts of assault in the third charges and then charge me with a lesser included offense of one count Assault in the Fourth Degree. Thereafter, Judge Ward immediately left the courtroom without setting bail for my case. I spoke up loud enough at this hearing to be heard. Although, after listening to the electronic public hearing for this day, I allege that this audio was edited because now I only hear mumbling when I hear myself speaking for the record. When judge bolted out of this courtroom, this gave me no opportunity to plea out to the one count of Assault in the Fourth Degree.

5. Grand Jury convenes on August 30, 2016, with the district attorney sites in case No. 4BE-15-00547 CR. This was not corrected until second grand jury.

6. September 06, 2016, with former retired Judge Charles Ray, Jr. presiding. Judge asks the attorney not assigned to my case if client waives reading and advisement. Without my consent this was waived against my will. Thereafter, I was arraigned on the four counts of Assault in the Third Degree. Regarding alleged victim Allen Nicori, count one Assault in the Fourth degree increased to two counts of assault in the third degree.

For the additional two counts of assault in the third degree, regarding alleged victim John Adam Andrew, Jr., I was only charged by information even though I hadn't waived the indictment. The Alaska Statute provides in order to be charged by information, indictment must be waived.

7. September 20, 2016, reading and advisement was waived against my will again without my consent. I was re-arraigned on the same four count indictment from the first indictment. I asked the court how was it possible that I'm getting indicted the second time without the first indictment being dismissed. The not assigned attorney, Michael Grey, threatened me at this hearing that I'll be expecting higher increased charges.

8. November 30, 2016, with presiding Judge McConnell, I was then indicted for the third time. Judge McConnell attempted to waive my rights at this hearing which I objected to, but judge McConnell yelled back at me to say that he deems it waived. Although, after requesting for the electronic hearing audio I no longer hear this attempt to waive my rights. After being arraigned, I asked how is it possible that I'm getting indicted again. I was given no explanation and no probable cause as to how I've just gotten indicted for the third time. There was no new evidence and no new information to indict me on higher increased charges. In order to increase charges, new evidence or new information must first be obtained. Was it unlawful for the district attorney to increase charges without first obtaining new evidence or information, and was this unethical?

9. After the third indictment, David Case misguided me to argue about dismissing the indictment in a way that it didn't even have any merit to support the argument. I didn't agree for any further jurisdiction in the petition against the State.

10. For the second week of trial, District Attorney Dora Gibson made an attempt to admit undisclosed discovery, the audio electronic recording between Tribal Police Officer Billy Lee and alleged victim Allen Nicori, this evidence had turned up missing and never located. Before this attempt to admit undisclosed evidence, District Attorney Dora Gibson offered me a four year deal that I rejected. After second week of trial, my trial was stopped and reconvened over a month later.

11. After trial and before sentencing, I was acquitted on count one (1): Assault in the Second Degree, regarding the charges related to alleged victim Allen Nicori. It doesn't seem fair that I was not also acquitted on the other counts when the district attorney pointed out to the judge that the missing evidence that turned up missing pertains to all four counts in this indictment.

12. Before sentencing, David Case deceived me by telling me that if I chose to testify before the court and answer the questions the district attorney has, that I'll receive less time and if I chose not to testify that I'll receive more time for sentencing.

13. From the beginning of incarceration I didn't waive any of the constitutional rights that I'm entitled to, such as the Speedy Trial. I also didn't agree to have any of my court hearings to be continued. I have kept pushing for trial from the beginning without any continuances.

14. For the third indictment with the increased charges, the district attorney didn't ask for the Bethel's Court House permission to indict me on the five (5) count indictment that I was arraigned on in November 30, 2016. There was no approval from the judge to file charges against me and my sister Winnifred Olick. My sister wasn't served with charging documents, but rather a subpoena to answer for the charges regarding the third indictment. The first offer the district attorney had offered Winnifred Olick was an illegal deal.

15. The first jury pool that was scheduled consisted of mostly women and out of less than fifty people for the pool was only six or nine men. Majority of the jury pool was from the town of Bethel, Alaska. I requested wanting another jury pool for the reason because the first jury pool appeared bias. David Case tried to tell me that he thinks the jury pool doesn't appear to be bias. I disagreed to this on-record. Another jury pool was set up several months later. I wanted jury of my peers from the surrounding villages and not from the Bethel area.

16. For the Judgment and Order of Commitment/Order, the document wasn't even signed by Superior court Judge Pro Tem, Raymond Funk on effective date December 27, 2018, on the day of sentencing. But was rather signed by someone else other than the judge whom in which presided for my trial.

Documents NOTICE OF CRIMINAL MERIT/SENTENCE APPEAL, DESIGNATION OF TRANSCRIPT and STATEMENT OF POINTS OF APPEAL were not signed by the assigned attorney David Case, instead, Douglas Moody from Public Defender Agency from Anchorage signed the documents.

Is this illegal?

All information regarding this grievance is true and correct to the best of my knowledge and belief.

1-9-20

DATE

Peter Nicori
GRIEVANTS SIGNATURE

Peter Nicori
PRINTED NAME

1-9-20

Sergeo Alask

[Signature]



- ☒ Original to Bethel Court House
- ☒ Copy to D.A. office in Bethel
- ☒ Copy to Public Defender Agency in Anchorage - Douglas Moody
- ☒ Copy to Alaska Court System Appellate Court
- ☒ Copy to defendant - Peter Nicori

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

Peter George Nicori,)

Appellant,))

vs.)

STATE OF ALASKA,)

Appellee.)

Trial Case No. 4BE-16-00547 CR

STATEMENT OF APPELLANT'S GRIEVANCE

I, Peter George Nicori, the appellant in the above case hereby attests and swears the following information to be true and correct to the best of my knowledge.

1. On August 16, 2016, at the Kwethluk, Alaska Public Safety Building, I was questioned by Tribal Police Officer Charlamagne Olick with V.P.S.O. Max Olick. Ms. Charlamagne Olick had no log notes to write down answers while questioning me, so she tore off piece of paper of a cardboard box to put notes onto. This piece of paper has gone missing. David Case had knowledge of this when I noticed that this evidence didn't show up in discovery. The electronic tape recording for this interrogation has been tampered with to alter its authenticity. I have repeatedly brought this to David Case's attention, but he hasn't done anything about my want of this evidence to be looked into.
2. I was originally charged with one count of Assault in the Third degree on August 17, 2016, that pertains to alleged victim Allen Nicori. I wasn't charged with crimes that pertain to allege victim John Adam Andrew, Jr.
3. At the arraignment on August 18, 2016, I was only arraigned on charges that pertain to allege victim Allen Nicori. I wasn't provided charging documents pertaining to allege victim John Adam Andrew, Jr.

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4. At scheduled preliminary hearing on August 29, 2016, I chose to exercise to have the charges pertaining to Allen Nicori to be dismissed under Crim. Rule 5, for lack of preliminary hearing when in fact I hadn't been indicted by the grand jury within ten days. I spoke up loud enough at this hearing to be heard, but after having requested a copy of this public electronic audio, I can only hear myself mumbling in the audio recording. I allege this public recording to have been edited.

I wasn't given bail to be set at this hearing.

5. September 06, 2016, First Indictment hearing. Prior to being indicted, reading and advisement was waived against my will without my consent. Thereafter, I was arraigned on four counts of Assault in the Fourth degree. The two charges pertaining to John Adam Andrew, Jr., I was charged by information even though I didn't waive the indictment. Alaska Statute provides that in order to be charged by information, indictment must be waived.

6. On September 20, 2016, I was arraigned again on the same four counts from the first indictment. Prior to getting arraigned, reading and advisement was waived against my will again without my consent. The first indictment wasn't dismissed prior to being re-indicted. There was no explanation as to how and why I was re-indicted again. There was no cause for this action.

I was threatened by District Attorney Michael Grey, that I was to expect new higher charges.

7. On November 30, 2016, I was indicted on higher increased charges. Prior to getting arraigned, I objected the waiver Judge McConnell attempted to waive. I no longer hear this attempt to waive my rights in the electronic public audio.

The District Attorney in this case failed to obtain permission from the Bethel Court Judge in order to arraign me on higher increased charges. New evidence and New information wasn't obtained in order to increase charges against me. There was no probable cause to take this action and no explanation as to how and why I was indicted and arraigned on increased charges. Was it unlawful for District Attorney to take actions without getting permission from the court to indict a defendant on higher charges without obtaining new evidence?"

8. After trial I was only acquitted on count 001: Assault in the Second degree. This dismissal action was taken because a missing police audio recording from Tribal Police Officer Billy Lee. Before the acquittal, the district attorney mentioned on-record that the missing police audio pertains to all four counts in the indictments against me. It seems unfair that I also didn't get acquitted on all counts in the indictment. David Case, the attorney that was assigned to this case, was ineffective assistance of counsel, incompetent and decieving in not advocating for my behalf to the full extent. Attorney has the obligation to protect my constitutional rights by law, but this wasn't benefitul in this case.

1-9-20

DATE

Peter Nicori
APPELLANT'S SIGNATURE
Peter Nicori
PRINT NAME



1-9-20
Seymour Alaska
[Signature]

3 of 3

- ☒ Original to Bethel Court House
- ☒ Copy to DA. office in Bethel
- ☒ Copy to Public Defender Agency Douglas Moody
- ☒ Copy to Appellate Court in Anchorage
- ☒ Copy for Defendant Peter Nicori

Peter George Nicori,

VS.

Appellee.

STATE OF ALASKA

SS

THIRD JUDICIAL DISTRICT)

1. I am the appellant for trial case number 4BE-16-00547CR.

2. I did not give consent to waive Criminal Rule 45 in writing or electronic recording in this case.

3. I did not give consent to continue any type of court hearing that was scheduled in Bethel, Alaska.

4. I did not give consent to waive reading and advisement prior to arraignment or indictments: 9/6/16 and 9/20/16 and 11/30/16.

3. I did not agree to be tried by the court.

6. I have reason to believe that I was illegally indicted at least twice in this case against me because my assigned attorney advised me of this without giving me the full information how or why this happened.

7. I was misrepresented by David A. Case. This attorney deceived me into arguing about the petition that went to the Appellate court to ask for further jurisdiction after I was illegally indicted the third time.

8. I have reason to believe that the electronic audio recordings from my hearings were tampered to alter its authenticity where certain words have been omitted from recordings.

9. There was a missing written note from Tribal Police Officer Charlamagne Olick. Torn piece of cardboard box paper with her notes taken while interrogation on August 16, 2016, at the Kwethluk, Alaska Public Safety Office.

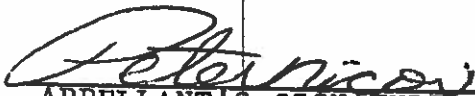
10. The electronic tape recording from Tribal Police Officer Charlamagne Olick had been tampered with.


11. A missing electronic recording by Tribal Police Officer Billy Lee taking statements from Allen Nicori turned up missing and never located.

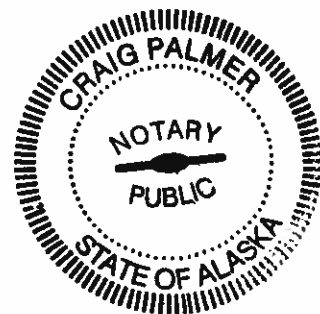
12. On November 30, 2016, Judge McConnell attempted to waive my rights or reading and advisement which I made an objection to. I no longer hear this in the electronic court hearing that was scheduled for this day. I have reason to believe this electronic public recording was tampered with to alter its authenticity.

All information in this affidavit is true and correct to the best of my knowledge and belief. I am of sound and mind.

DATE 12/1/19


APPELLANT'S SIGNATURE
Peter George Nicori
Trial case No; 4BE-16-547CR

12/1/19 Notary 
Commission Expires EOS



- ☒ Original to Bethel Court House
- ☒ Copy for DA office in Bethel
- ☒ Copy for Public Defender Agency Douglas Moody
- ☒ Copy for Appellate Court System in Anchorage
- ☒ Copy for defendant Peter Nicori